

## REMARKS

Under a restriction requirement, Claims 1 through 26 were elected for examination. Claims 27 through 34 were withdrawn from consideration.

In the Specification, the Examiner noted that a referenced compending application did not mirror the subject matter of the current application. This reference has been removed by an amendment to the Specification.

The Examiner objected to the units designation in Claims 13 and 25 in that they did not agree with the unit designation in the Specification. The cited claims have been amended so that the units in the cited claims agree with the units in the Specification.

The Examiner rejected Claims 1 - 26 under 35 U.S.C. 103(a) as being unpatentable over Kolawa in view of Gruen. The Examiner further cited a double patenting rejection. Applicant contends that the claims as amended together with the original claims now are patently distinct from the cited references. Claim 1 was amended to claim a solar cell as taught in the Specification and in the Drawings. In column 4, first paragraph, Kolawa teaches that the energizing for the N- and P- doped diamond films is a stream of  $\alpha$  particles generated through the radioactive decay of a radioactive substance such as curium-244 which as is depicted in figure 1 is in contact with the diamond films. Kolawa further teaches that it is the interaction of the  $\alpha$  particles which generate the electron-hole pair. These teachings are also reflected in Claim 1 of the Kolawa patent. Kolawa then teaches that the power source is isolated from its surrounding by a neutral diamond substrate or some other insulating material. As Kolawa teaches in the abstract, this substrate is used to prevent damage or to insulate the surroundings from  $\alpha$  particles which are not trapped in the diamond film. In contrast, Applicant teaches that his

device is powered by incident electromagnetic radiation which includes radiation comprising the solar spectrum as opposed to Kolawa's radioactive particles. Applicant also teaches in amended Claim 1 that the substrate on which the diamond films are mounted is selected so as to be transparent to the incoming electromagnetic radiation as opposed to Kolawa's need to insulate the surroundings from any  $\alpha$  particles. Applicant further teaches that the first film electrode is transparent to the incident radiation an idea which is not discussed in Kolawa since a distinctly different energy source is involved. Applicant believes that amended Claim 1 presents an apparatus which is not obvious in light of the two cited references and further is no longer in contention to be rejected under the concept of double patenting.

### CONCLUSION

Since Applicant contends that the amended Specification and the amended Claims have overcome the Examiners rejections, Applicant requests that the Examiner allow Claims 1 and 3-26, as indicated in the attached complete listing of claims.

Respectfully submitted,

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Attachments (2)

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